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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,911	09/29/2003	Scott R. Watterson	13914.579.10.1	8978

22913 7590 12/12/2006

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

EXAMINER

RICHMAN, GLENN E

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,911

Applicant(s)

WATTERSON ET AL.

Examiner

Glenn Richman

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 35-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-34 and 53-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 54 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for “infrared control signal” – claim 54.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 10-34, 53-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Shea (6050924).

She discloses a receptacle that supports at least one storage medium containing exercise programming, said exercise programming comprising (col. 6, lines 61 – et seq.) motivational content (col. 6, lines 61 – et seq.), and (ii) control signals synchronized with said motivational content (col. 6, lines 61 – et seq.); and a wireless transmitter communicably connected with said at least one storage medium and

receiving said exercise programming, said transmitter delivering said programming to the one or more exercise devices (col. 5, lines 1-14).

As for claims 11-14, 16-34, 53-57 Shea further disclose said control signals are delivered to the one or more exercise devices using at least one of an infrared signal and a radio signal (col. 5, lines 1-14), a base, a stand extending from said base, and a control panel mounted to said stand (fig. 4), said receptacle further comprises an input receptacle that receives said at least one storage medium (col. 6, lines 61 – et seq.), said at least one storage medium comprises one or more of a magnetic storage medium, an optical storage medium, and a flash memory medium (col. 6, lines 23 – et seq.), at least one input port, said input port receiving said exercise programming from a broadcast transmission device (col. 5, lines 1-14), at least one input port, said at least one input port receiving said exercise programming from a computerized output device (col. 5, lines 1-14), said at least one input device comprises at least one control that changes at least one operating parameter of the central control unit (col. 5, lines 1 – et seq.), said at least one output device comprises at least one visual display that depicts a visual representation of said exercise programming (col. 3, lines 40 - et seq.), at least one output device comprises at least one audio device that broadcasts an audio portion of said exercise programming (col. 15, line 15), said wireless carrier signal is a signal selected from the group consisting of an infrared signal or a radio signal (col. 5, lines 1-14),

53. A control signal for controlling one or more exercise devices over a wireless communication medium through a central control unit, the control signal carrying data

comprising: a first data field defining a first operating parameter value for one of one or more operating parameters of an exercise device; a second data field defining a second operating parameter value for another of said one or more operating parameters of the exercise device; a third data field identifying an exercise device type; and a forth data field defining a checksum of said first data field and said second data field, said checksum configured to be used by the exercise device for error detection of the first operating parameter value and the second operating parameter value. 54. The infrared control signal as recited in claim 53, carries data that are one of digital and analog information. wherein the control signal 55. The infrared control signal as recited in claim 54, wherein the signal is sent through a transmitter component of a transceiver at a central control unit, and wherein the sent signal is received through a receiver component of a transceiver at an exercise device. 56. The infrared control signal as recited in claim 53, wherein said exercise device type is selected from a group consisting of an aerobic exercise device or an anaerobic exercise device. 57. The infrared control signal as recited in claim 53, wherein said exercise device type is selected from a group consisting of a treadmill, a bicycle, a weight machine, or an elliptical.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shea in view of Shum.

Shea does not disclose at least one storage medium stores one or more MP3 audio files.

Shum discloses using an MP3 audio file (col. 8, lines 38-45).

It would have been obvious to use Shum's MP3 with Shea, as it is a well known audio device, as taught by Shum, for use of a storage medium.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'Glenn Richman', positioned above the printed name.

Glenn Richman
Primary Examiner
Art Unit 3764